

Appl. No. : **10/828,923**
Filed : **April 21, 2004**

REMARKS

In response to the Office Action issued February 12, 2007, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 1-7, 9 and 10 remain pending. Claim 1 has been amended. Claim 8 has been canceled, without prejudice or disclaimer.

In the changes made by the current amendment, ~~deletions are shown by strikethrough~~, and additions are underlined or enclosed in [[double brackets]].

The Rejection of Claim 8 Is Moot

Claim 8 presently stands rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. Although Applicants disagree with the Examiner's contention that Claim 8 does not comply with 35 U.S.C. § 112, in order to expedite allowance of the present application, Applicants have nonetheless canceled Claim 8, without prejudice or disclaimer. Accordingly, it is respectfully submitted that the outstanding rejection of Claim 8 is now moot.

Claims 1-7, 9 and 10 Are In Condition For Allowance

Claims 1-7, 9 and 10 presently stand rejected under either 35 U.S.C. § 102(b) or 103(a) in view of one or more of U.S. Patent Nos. 5,425,723 to Wang; 3,595,241 to Sheridan; 5,213,576 to Abiuso et al.; 5,032,113 to Burns; and 5,370,610 to Reynolds. It is respectfully submitted that these claims, as amended herein, overcome the outstanding rejections.

Initially, Applicants would like to thank the Examiner for the courtesy extended to the Applicants' counsel in conducting the personal interview on March 22, 2007. Claim 1 has been amended along the lines discussed during the interview and noted above in the "Summary of the Interview" section of this response. It is respectfully submitted that the applied references, alone or in combination, do not disclose or suggest the catheter of Claim 1 for at least the reasons discussed during the interview. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 1.

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Claims 2-7, 9 and 10 are allowable not only because they depend from an allowable claim, but upon their own merit as well. Therefore, reconsideration and allowance of these claims is respectfully requested.

The Double Patenting Provisional Rejection of Claims 1-10 Is Now Moot

Claims 1-10 presently stand provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as Claims 1-10 of U.S. Patent Application No. 11/364,767. Claims 1-10 of the '767 application have been replaced with new Claims 11-21, which it is respectfully submitted are not coextensive in scope with the presently pending claims of this application. Applicants assume that the Examiner has access to the '767 application file and, thus, have not provided the new Claims 11-21 of the '767 application with this response. However, Applicants are willing to furnish any information regarding the '767 application requested by the Examiner. Because the claims of the present application are no longer coextensive in scope with the claims of the '767 application, reconsideration and withdrawal of the present double patenting rejection is respectfully requested.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Curtiss C. Dosier at (949) 721-7613 (direct line), to resolve such issue promptly.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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